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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,234	02/05/2004	Richard D. Stackenwalt	0112	6188

7590 11/15/2007
ARMSTRONG WORLD INDUSTRIES, INC.
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EXAMINER

GILBERT, WILLIAM V

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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11/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/774,234

Applicant(s)

STACKENWALT ET AL.

Examiner

William V. Gilbert

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-7, 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

This is a Final Office Action. Claims 3, 8, 9 and 11-16 are cancelled. Claims 1, 2, 4-7 and 10 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 4-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valaire (U.S. Patent No. 5,622,197).

Claim 1: Valaire discloses a suspended decorative structure comprising a panel (20) having opposed edges, first and second biasing members (45; see Fig. 5 generally), a first cable (42) attached to the first biasing member at a first end of the cable and the second member at a second end of the first cable, the first cable cooperates with the first and second biasing members to maintain the panel in a flexed configuration. The species in Fig. 5 does not disclose the second and third cables attached to the biasing members; however the species in Fig. 8 discloses second and third cables (119) attached to the biasing members. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the species to achieve this limitation because the species are functionally equivalent and can perform equally as well. Second, while Valaire discloses attaching the second and third cables to structures (50) it does not disclose attaching the member to a wall. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to attach the member to a wall because a wall would perform the same function as the structure of element 50.

Claim 2: the biasing members have a body with a groove (see Fig. 7: portion between the top and bottom connected by 120 and

containing members 111, 112.) The phrase "for receiving one of the opposed edges of the panel" lines 3, 4 is a statement of intended use and must result in a structural difference between the prior art of record and the claim. If the prior art is capable of satisfying the limitation, then it meets the claim. The groove portion can clearly receive an edge of the panel.

Claim 4: the biasing members have a cam (111) cooperating with the panel.

Claim 5: the biasing members have a jaw (111, 112, 113) cooperating with the panel.

Claim 6: the jaw is pivotable about a pivot point (portions 111 and 112 rotate about a center point and the entire assembly can rotate about portion 117.)

Claim 7: the panel is fabric (Col. 1, lines 50-55).

Claim 10: the first cable is tensioned by the panel (Fig. 1; note the weight of the cable maintains the panel in a tensioned state.)

Response to Arguments

2. The following addresses Applicant's Remarks/Arguments dated 20 August 2007.

35 USC §112 Rejection (Remarks page 6)

Applicant's cancellation of Claim 9 renders the rejection moot and it is therefore withdrawn.

35 USC §102(b) Rejection (Remarks page 6):

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection as the claims have been amended by the Applicant.

Conclusion.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith (U.S. Patent No. 294,088); Grayson (U.S. Patent No. 4,845,511); Mollinger (U.S. Patent No. 3,643,391); Gower (U.S. Patent No. 5,595,233); Staats (U.S. Patent No. 3,386,220).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this

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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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12 Nov 07

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